

REPORT  
TO THE  
SENATE  
OF THE  
SELECT COMMITTEE ON INTELLIGENCE  
UNITED STATES SENATE  
COVERING THE PERIOD  
JANUARY 1, 1979—DECEMBER 31, 1980  
together with  
ADDITIONAL VIEWS



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# SENATE SELECT COMMITTEE ON INTELLIGENCE

[Established by S. Res. 400, 94th Cong., 2d Sess.]

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## PREFACE

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The Senate Select Committee on Intelligence submits to the Senate a report of its activities from January 1, 1979 to December 31, 1980. The Committee has been charged by the Senate with the responsibility to carry out oversight over the intelligence activities of the United States. Most of the work of the Committee is, of necessity, conducted in secrecy, yet the Committee believes that intelligence activities should be as accountable as possible to the public. The public report to the Senate is intended to meet this requirement.

BARRY GOLDWATER,  
*Chairman.*

DANIEL PATRICK MOYNIHAN,  
*Vice Chairman.*

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## I. INTRODUCTION

The 96th Congress enacted a permanent statutory framework for congressional oversight of the intelligence community. This statute replaced the burdensome reporting requirements of the Hughes-Ryan Amendment. The Classified Information Procedures Act of 1980 was passed to protect intelligence sources and methods from unnecessary disclosure in criminal law enforcement proceedings. The Foreign Intelligence Surveillance Act of 1978 was implemented, and as the Committee reported to the Senate, provided "a workable legal procedure for electronic surveillance conducted within the United States for intelligence purposes." (Report No. 96-1017.) Pursuant to Executive Order 12036, guidelines for other intelligence activities affecting the rights of Americans were established by each agency, approved by the Attorney General, and reviewed in the light of experience. In its annual intelligence budget authorization acts, the Congress, upon the recommendation of the House and Senate Intelligence Committees, sought to ensure adequate resources for vital foreign intelligence and counterintelligence programs.

While the Executive branch endorsed the concept and much of the substance of comprehensive intelligence charter legislation developed in consultation with the Senate Intelligence Committee, the consideration of charter proposals was set aside in mid-1980. Bills to provide criminal penalties for the unauthorized disclosure of the identities of covert agents were reported by the Intelligence and Judiciary Committees of both Houses of Congress, but final action was postponed until 1981.

In addition to considering these legislative measures, the Select Committee on Intelligence conducted a wide range of oversight activities during the 96th Congress to review the performance of the intelligence community. Most of the committee's oversight efforts cannot be discussed in detail in a public report because they involve classified information. However, the general character of the committee's concerns was reflected by the oversight practices and inquiries described in this report.

One of the committee's principal responsibilities was to assess the effectiveness of the intelligence community in meeting the needs of the nation today and in the years ahead. This was one of the major concerns of the committee's annual intelligence budget authorization process, and intelligence charter hearings provided a forum for witnesses to address these issues. The committee examined some particular topics in depth, partly to assist the full Senate and other committees in evaluating intelligence information and intelligence activities that affected national policy such as strategic arms agreements.

Since January 1979, the committee was assisted in its assessment of U.S. reconnaissance capabilities by a panel of consultants. The

committee also received a number of detailed reports from the intelligence community and particular intelligence agencies. These included full information on covert action, electronic surveillance conducted pursuant to the Foreign Intelligence Surveillance Act, and the monitoring of compliance with certain international agreements. Changes in agency regulations and procedures were reported to the committee. Specific reports were submitted by the CIA under the Foreign Corrupt Practices Act and by the Department of Justice regarding admission of aliens. The Director of Central Intelligence reported annually on the overall activities of the intelligence community.

Apart from formal inquiries and reports, the committee's oversight involves regular consultation with the intelligence agencies at all levels on matters of common concern. It has been the objective of the committee since its establishment in 1976 to ensure that necessarily secret intelligence activities are held accountable to the elected representatives of the American people. The procedures of Senate Resolution 400, 94th Congress as buttressed by the statutory oversight provisions enacted in 1980, are designed to ensure such accountability while maintaining the security that is essential for effective intelligence operations.

## II. LEGISLATION

### A. CONGRESSIONAL OVERSIGHT LEGISLATION

One of the most significant legislative accomplishments during the 1979-80 period was the enactment of permanent statutory authority for comprehensive congressional oversight of all U.S. intelligence activities. Section 407 of the Intelligence Authorization Act for Fiscal Year 1981 contained two provisions relating to congressional oversight. The first modified the requirement in the 1974 Hughes-Ryan Amendment that CIA covert operations be reported to as many as eight committees. The second added to the National Security Act of 1947 a new title providing the means to carry out oversight of all intelligence activities by the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence.

The oversight provisions now contained in Title V of the National Security Act of 1947 are the result of four years of negotiations by the Senate Select Committee with the intelligence agencies, the House of Representatives, and the President, Vice President, and their chief advisors. Agreement was reached upon a statutory formula which served the requirements of both branches, and fully respected the constitutional authorities and duties of both branches of government. The procedures contained in the oversight provisions are based on the practical experience of the past four years. They parallel the guidelines set forth in Senate Resolution 400, 94th Congress, which have been in force since 1976.

The general principle embodied in these provisions is that all the information that the oversight committees require will be provided when the committees require it and in the detail that the particular occasion demands. There is, however, a recognition of the authority and duty of both the Congress and the Executive branch, including the constitutional authorities of each branch. There is a further duty on the part of both branches to insure that intelligence information is handled with care and discretion so that the interests of the United States are protected. The guiding objective was to establish procedures by which both branches could carry out their separate and joint responsibilities for the governance of U.S. intelligence activities in accordance with fundamental constitutional principles.

Subject to these fundamental authorities and duties, the procedures of the newly enacted Title V of the National Security Act of 1947 establish four ways by which the oversight committees will receive information: the first is an obligation on the part of the Executive Branch to keep the select committees on intelligence fully and currently informed of all intelligence activities. This places upon the intelligence agencies the obligation to tell the intelligence committees those things which are of importance, current interest, and useful to policymakers and to bring this information to the attention of the committees in a prompt and timely fashion.

Second, the intelligence agencies are required to provide to the oversight committee advance notice of significant anticipated activities such as covert operations and other intelligence activities specified by the intelligence oversight committees in consultation with the executive branch. Provision also is made for those extraordinary circumstances when advance notice might be withheld from the select committees. If in a rare and compelling circumstance the President determines it is essential to limit prior notice to meet extraordinary circumstances affecting vital national interests, such prior notice is to be given to eight congressional leaders. If prior notice of a covert operation is not given, the President must inform the select committees fully in a timely fashion and provide a statement of the reasons for not giving prior notice.

Third, in order to carry out inquiries which arise from time to time, the intelligence agencies are to furnish any information or material concerning intelligence activities requested by the oversight committees.

Finally, they are to provide timely reports on any illegal intelligence activities or significant intelligence failures.

#### B. QUALITY OF INTELLIGENCE

Section 501(a) of the National Security Act of 1947, as amended in 1980, provides that "The Director of Central Intelligence and the heads of all departments, agencies, and other entities of the United States involved in intelligence activities" must "report in a timely fashion to the select Committees . . . significant intelligence failure and any corrective action that has been taken or is planned to be taken in connection with such illegal activities or failure." Significant failures would include major errors in analysis and/or prediction, failures in technical collection systems or other clandestine operations and failures to protect sensitive sources and methods information from unauthorized disclosure.

The adoption of this provision was an expression of concern about the quality of the intelligence product.

The Senators who proposed this provision acted from a recognition that the National Intelligence Estimates seriously underestimated the growth of the Soviet threat and there have been significant failures in the ability of the intelligence community to discern, well in advance, a number of political developments with significant implications for U.S. national interests.

This Committee intends to augment and expand its oversight activities to assure that American policymakers receive the highest quality of intelligence possible and that they receive, where there is a conflict of opinion, the full range of views.

#### C. INTELLIGENCE IDENTITIES PROTECTION

A small number of Americans, including some former intelligence agency employees, have attempted to destroy the ability of U.S. intelligence agencies to operate secretly by making a systematic effort to publicize the identities of U.S. intelligence agents.

The names of more than 1,000 alleged CIA officers were disclosed in two books by former CIA officer Philip Agee. Louis Wolf, the co-editor of the Covert Action Information Bulletin to which Agee contributes, claims it has disclosed the names of more than 2,000 CIA officers within the past 5 years.



The danger of such exposure was underscored by incidents of violence in Athens and Jamaica. Richard Welch, CIA station chief in Athens was shot and killed in front of his home in December 1975, less than a month after he was identified in the Athens Daily News. His name was generally circulated earlier by a magazine then published by Agee. On July 4, 1980, in Kingston, Jamaica, shots were fired into the home of an American Embassy Official, Richard Kinsman, only 48 hours after editor Wolf named Kinsman and 14 other American diplomats in Jamaica as alleged agents of the CIA. On July 7, 1980, three days after Kinsman's home was machine-gunned and bombed, another Embassy employee listed by Wolf apparently was targeted but escaped without harm. In addition to the disclosure of names, Wolf also had made public the addresses, telephone numbers, automobile license plate numbers and even the color of automobiles driven by the Americans he cited.

Before 1980 there had been proposals in the 94th and 95th Congresses to protect the identity of agents but no action was taken. In January, 1980, Senators Moynihan, Wallop, Jackson, Chafee and other Senators not on the Intelligence Committee introduced the Intelligence Reform Act of 1980, one of whose provisions dealt with the imposition of criminal sanctions for disclosing the identity of covert agents. In February 1980 the National Intelligence Act of 1980, sponsored by Senator Huddleston, Chairman Bayh, Vice Chairman Goldwater, and Senator Mathias, to provide comprehensive intelligence charters also included criminal sanctions for disclosures made by current or former government employees.

In June, 1980, public hearings were held by the Committee on the provisions of five bills for the protection of agents as well as proposals submitted for the Administration by Admiral Stansfield Turner, the Director of Central Intelligence.

After the Jamaica shootings, the Select Committee met in closed session on July 22, 1980, with representatives of the CIA and the Justice Department. The most effective means of dealing with the newly aggravated situation were considered.

Security considerations preclude confirming or denying the accuracy of specific attempts at identifying U.S. intelligence personnel. There have, however, been many such disclosures. The destructive effects of these disclosures on U.S. intelligence operations have been varied and wide-ranging. The Select Committee is aware of numerous examples of such effects which cannot be addressed in a public report.

The Committee concluded that the United States cannot collect human intelligence it requires unless intelligence officers are provided effective protection and its sources of intelligence are assured anonymity. The Committee concluded that existing espionage statutes need to be supplemented with specific prohibitions which will permit more effective prosecution of persons who expose covert intelligence identities.

On July 29 1980, the Committee approved S. 2216, as amended, the Intelligence Identities Protection Act, to address the problem of naming names. In recommending that the U.S. Senate favorably act upon the Intelligence Identities Protection Act, the Select Committee made these findings:

Successful and efficient foreign intelligence and counterintelligence are vital to the national security;

Intelligence and counterintelligence activities require concealment of relationships between the U.S. intelligence community and certain employees and sources of information;

Disclosure of such relationships to unauthorized persons is detrimental to U.S. intelligence activities;

Individuals with a concealed relationship with the U.S. Government may be exposed to physical danger if their identities are exposed;

Organizations or individuals by means of standard espionage techniques may be able to identify and expose U.S. employees with concealed intelligence relationships;

Current law is inadequate to prevent such efforts; and

The Executive branch with the support of Congress must strengthen its policies, arrangements and procedures to protect its intelligence officers, agents and sources.

The Intelligence Identities Protection Act would have made the disclosure of the identities of intelligence officers, agents and sources a criminal offense. It applied to three classes of individuals:

those who have had authorized access to classified information identifying covert operatives;

those who have had access to classified information and as a result learned of the identity of undercover agents; and

those who may not have had access to classified information but whose course of conduct involves a pattern of activities intended to identify and expose covert agents with reason to believe such course of conduct would impair or impede U.S. foreign intelligence activities.

It was the Committee's purpose in carefully defining the three classes of persons to exclude the possibility that casual conversation, political debate, the journalistic pursuit of a story on intelligence or the disclosure of illegality or impropriety in government would be chilled by enactment of this legislation.

The penalties varied from 10 years imprisonment or \$50,000 fine or both for the first category of offenders, to five years or \$25,000 fine or both for the second category and three years imprisonment or \$15,000 fine or both for the third category.

Constitutional questions were raised in public hearings on the third class of offenders. The Committee concluded, that penalties imposed in narrowly limited circumstances on the third class of offenders would not infringe on the First Amendment rights of freedom of the press and freedom of expression. In his separate views, Senator Biden, who cast the sole vote against the bill, said "it appears that there are several constitutional questions regarding the bill that still need to be answered, or at a minimum better explored, before it should be approved."

The Judiciary Committee considered S. 2216 on sequential referral under the provisions of Senate Resolution 400 and a number of amendments were adopted. There were significant differences between the Intelligence and the Judiciary Committee versions of the bill; and the Senate did not act on either measure.

#### D. INTELLIGENCE CHARTER

Since the Committee was established by S. Res. 400, 94th Congress, on May 19, 1976, a fundamental concern has been the establishment of comprehensive charter legislation for the intelligence community.

During 1980 two charter bills were introduced by Senators serving on this committee. Senators Huddleston, Mathias, Bayh and Goldwater introduced S. 2284, the National Intelligence Act of 1980. In his State of the Union address in January 1980, the President called for "quick passage of a charter to define clearly the legal authority and accountability of our intelligence agencies." Out of the endless hours of work over four years by members of the Intelligence Committee, the intelligence community, the Justice Department, and the White House,<sup>1</sup> came the National Intelligence Act of 1980 introduced on February 8, 1980. The bill was developed in consultation with the Executive branch.

The National Intelligence Act was intended to give the intelligence community necessary authority and to set forth the missions of the principal agencies. The role of the National Security Council in defining intelligence policies was clearly spelled out. As under Executive Order 12036, President Carter's guidelines for the intelligence community, a central figure was given the authority to coordinate the foreign intelligence functions of separate entities of the community, including the Central Intelligence Agency, the National Security Agency, and the Defense Intelligence Agency.

Specific authority was given in the bill for the collection of foreign intelligence by technical and human sources. It included engaging in counterintelligence and counterterrorism activities. It also included, when important to the security of the United States, the conduct of special activities, or covert action.

Although there were restrictions and limitations in intelligence activity, the Act would have authorized all intelligence activities which the agencies believed were necessary. Instead of detailed restrictions, the Act stressed a system of oversight and accountability.

In the two months after introduction of the bill in February, the Committee heard from forty-two witnesses, including Admiral Stansfield Turner, the Director of Central Intelligence; the heads of all the entities of the intelligence community, Senator Lowell Weicker of Connecticut, former Directors of Central Intelligence William Colby and James Schlesinger; former Attorney General Griffin Bell; and numerous outside experts and representatives of interested groups. In addition, meetings were held with the President and other high

<sup>1</sup> On Feb. 8, 1980, the President sent the following letter to the committee:

DEAR MR. CHAIRMAN: Over the past two years, this Administration and the Senate Select Committee on Intelligence have worked closely and diligently together in an effort to agree on a comprehensive legislative charter for the nation's intelligence community. Our goal has been to provide for a strong, effective intelligence effort and at the same time protect individual rights and liberties.

As our January 30 meeting confirmed, agreement has been reached on most of the important issues. I would like to commend the members of the Committee, and especially Senator Huddleston and his Subcommittee, for their outstanding contribution to this effort. I am especially pleased that we have reached virtually complete agreement on the organization of the intelligence community and on the authorizations and restrictions pertaining to intelligence collection and special activities.

Although a few issues remain to be resolved, I urge that we move ahead on this important legislative endeavor. The substantial agreement we have already achieved should facilitate resolution of remaining differences in a manner that will not bar or deter necessary action in extraordinary and difficult circumstances. In the course of our work together, we have overcome a number of misconceptions and misapprehensions. We have demonstrated that the system of oversight works as a safeguard against abuse. For these reasons, I am confident that we can resolve the remaining issues so as to protect the capacity of our government to act, while ensuring that our crucial intelligence services are operating within the bounds of law and propriety.

In closing, I wish to emphasize my support for a comprehensive intelligence charter, and for the majority of the provisions contained in your submission. Only a comprehensive charter will give the American intelligence community the kind of endorsement it needs and deserves from the American people. I also want to express again my appreciation for the Committee's assistance in this effort. I trust that our disagreements can be resolved as the legislative process continues.

Sincerely,

JIMMY CARTER.

Executive branch officials in order to reach agreement on all outstanding issues. At a meeting on May 1, 1980, the Committee, after reviewing the legislative situation, agreed to report out a modified version of the congressional oversight provision of S. 2284. These passed the Senate, were subsequently incorporated in S. 2597, and signed by the President into law on October 14, 1980.

Several members of the Committee took a different approach to charter legislation. They organized hearings on the community's need for improved analysis, collection, and counterintelligence, and introduced S. 2929. This bill would have established competition in intelligence analysis, centralized coordination between the several agencies with respect to counterintelligence, and would have made the clandestine services of the CIA into a separate agency.

#### E. FREEDOM OF INFORMATION ACT

During 1980 the Committee considered modification of the provisions of the Freedom of Information Act as they apply to the intelligence community. The proposed charter bill (S. 2284) and a separate bill (S. 2216) introduced by Senators Moynihan, Wallop, Jackson, Chafee and several senators not on this Committee would have exempted files of the Central Intelligence Agency from:

the provisions of any law which require the publication or disclosure, or the search or review in connection therewith, if such files have been specifically designated by the Director of Central Intelligence to be concerned with: The design, function, deployment, exploitation or utilization of scientific or technical systems for the collection of foreign intelligence; special activities for foreign intelligence or counterintelligence operations; investigations conducted to determine the suitability of potential foreign intelligence or counterintelligence sources; intelligence and security liaison arrangements or information exchanges with foreign governments or their intelligence or security services: *Provided* that requests by American citizens and permanent resident aliens for information concerning themselves, made pursuant to sections 552 and 552a of title 5, shall be processed in accordance with those sections.

The key argument presented against retention of the present provisions of the FOIA involves more than the costs in money and manpower, both direct and indirect, that result from the Act and even the likely utilization of the Act by hostile foreign intelligence services. It is the effect of the Act in discouraging individuals from providing intelligence and counterintelligence information to the United States government. The main argument for the current FOIA provisions is that the statutory exemptions for classified information and information relating to intelligence sources and methods adequately protect national security interests. Some proponents of this view felt that any changes in the provisions relating to the intelligence community might undermine the Act as a whole.

No action was taken by the Committee on FOIA modification during the Committee mark-ups of S. 2284 and S. 2216 because of the urgency of modifying the Hughes-Ryan amendment in 1980 and the priority given to protecting the identities of covert agents from unauthorized disclosure.

### III. FOREIGN INTELLIGENCE

Events throughout the world portend a future of profound changes over the next decade. The revolution in Iran, the seizure of American diplomats as hostages, the war between Iraq and Iran, the Soviet invasion of Afghanistan, tension elsewhere in the Middle East, in Poland, Africa, Southeast Asia, and Latin America, the accelerating proliferation of strategic weapons, the energy crisis, the growing threat of terrorism and assassination, and unparalleled economic and technological developments all emphasize the necessity for an intelligence system that is fully alert and responsive to the period of turmoil which will confront the United States in the 1980s. The main task for U.S. intelligence is to prepare for the future while responding to the daily crises which erupt around the world.

The Select Committee sought to address how well the intelligence system is equipped to face the decade ahead, whether changes may be needed in the intelligence community's framework for strategic planning, the deployment of U.S. intelligence assets, and the analysis of political, military, economic and technical intelligence, and how Congress can best assist in these changes through budgetary support of needed intelligence community resources and other legislation.

#### A. RECONNAISSANCE PANEL

S. Res. 400 places on the Committee the responsibility to ensure that the United States maintains a strong and viable intelligence capability. To aid in fulfilling this responsibility, the Committee solicited the advice of a select group of consultants knowledgeable on intelligence because of their former service in the government or in support of intelligence work. On January 29, 1979, the Committee established a panel of consultants composed of: Dr. Donald Steininger, Chairman, Xerox Company; Dr. William Baker, Bell Laboratories; Dr. Sidney D. Drell, Stanford Linear Accelerator Center; Dr. Richard Garwin, Thomas J. Watson Research Center; Dr. Alexander H. Flax, Institute for Defense Analysis; Mr. Franklin A. Lindsay, President, ITEK Corporation; and Dr. Carl Duckett, Systems Technology Laboratory, Inc.

The principal focus of the Panel was to advise the Committee on U.S. reconnaissance capabilities. Beginning in January 1979 the Panel met in Washington, D.C., usually for two days in each month. During the course of its deliberations, the Panel concentrated its attention on:

- (a) the adequacy of existing reconnaissance capabilities;
- (b) the scope and thrust of planned reconnaissance capabilities;
- (c) the extent to which advanced technologies have been factored into future reconnaissance capabilities; and
- (d) the extent to which future policy needs have been factored into U.S. planning for future reconnaissance capabilities.

During this period the Panel submitted two written reports to the Committee containing far-ranging recommendations on current and planned U.S. reconnaissance capabilities. The Panel's findings were instrumental in recommendations the Committee made in the budget authorization process.

#### B. FOREIGN INTELLIGENCE FOR THE SENATE

Among the most important duties which the Select Committee on Intelligence was assigned by the Senate was its independent evaluations of intelligence information and its monitoring of activities which bear upon important national policy issues. The Select Committee reported to the Senate on intelligence-related aspects of a variety of national security issues over the past few years, including the Panama Canal Treaty negotiations, the Middle East arms balance, Angola, the Shaba invasion of 1978 and the SALT II Treaty. This practice continued during the past two years.

In April 1980 the Committee on Foreign Relations undertook its first annual review of the Taiwan Relations Act (P.L. 96-8). In connection with this process the Intelligence Committee was asked by the Foreign Relations Committee to prepare an assessment of the impact of derecognition of the Republic of China on U.S. intelligence with respect to developments in Taiwan, China and elsewhere in Southeast Asia. The Intelligence Committee staff consulted with collection managers and analysts throughout the intelligence community concerning this question and prepared a detailed classified report which was made available to the Foreign Relations Committee.

In addition to its report on the capabilities of the U.S. intelligence community to monitor Soviet observance of the SALT II Treaty, the Select Committee continued to review emerging intelligence on Soviet military activities, particularly those relating to arms limitation agreements to which Moscow is a party. The Committee was a regular recipient of intelligence on Soviet military developments and the staff developed close working relationships with analysts throughout the intelligence community who provided insights into new developments. Thus, the Committee followed and reported to the Senate activities which had significant implications for U.S. national security or arms control monitoring. In 1980 the Committee staff prepared classified reports or briefs on Soviet activities bearing upon the SALT I Interim Agreement and ABM Treaty, the Limited and Threshold Test Ban Treaties, the SALT II Treaty, the Nuclear Non-Proliferation Treaty and the 1975 Biological Weapons Convention.

#### C. U.S. MONITORING CAPABILITIES FOR SALT II

In late 1977, the Senate Foreign Relations Committee asked the Select Committee on Intelligence to prepare a report on the capabilities of the United States to monitor Soviet strategic arms activity with respect to the emerging SALT II agreement.

The Committee's SALT II study addressed exclusively the issue of monitoring. The Committee was not called upon to make judgments about the effectiveness of the agreement, although it did study each provision carefully in order to ascertain monitoring tasks and how

particular provisions affected monitoring. The Select Committee's report dealt only with the collection, processing and analysis of intelligence bearing on Soviet compliance with the Agreement's provisions.

For two years the members and staff of the Committee examined the considerations relevant to U.S. monitoring capabilities for SALT II. This process included review of documents as well as participation in numerous briefings and discussions with collection managers and analysts throughout the intelligence community. Members and staff of the Committee also traveled to Geneva to discuss monitoring considerations with members of the U.S. negotiating team and to U.S. intelligence facilities throughout the world. The Committee then held a series of 18 hearings between July 12 and September 13, 1979. More than 25 officials and former government experts presented their final judgments on U.S. capabilities to monitor SALT II agreements.

On October 10 and 12, 1979, Chairman Bayh and Vice Chairman Goldwater briefed the Foreign Relations Committee in executive session on the Select Committee's SALT monitoring study. During these hearings Senators Bayh and Goldwater provided a full review of the Select Committee's report, with particular attention to the most difficult monitoring issues. Following this session, the Select Committee staff prepared detailed responses to a number of questions raised by members of the Foreign Relations Committee.

The Select Committee issued an unclassified version of its findings as a committee print in October 1979.

On October 15, 1979, Senator Huddleston and Chairman Bayh introduced a reservation to the SALT II treaty that would establish a formal process for informing the Senate of U.S. monitoring of the treaty and any possible violations. On December 4, 1979, Senators Chafee, Durenberger and Leahy introduced a reservation that would require the President to keep the Select Committee on Intelligence fully and currently informed of any intelligence information that indicated compliance or possible non-compliance of the Soviet Union with the Treaty. On December 14, 1979, Senator Durenberger introduced a further reservation that whenever there is a reasonable probability that the Soviet Union is not complying with the provisions of the SALT II Treaty, the President take appropriate action regarding such noncompliance, including the raising of the issue in the Standing Consultative Commission, unless the national security interests of the United States require that such issue not be so raised.

#### D. MONITORING NUCLEAR TESTING AND PROLIFERATION

Monitoring the global spread of nuclear materials and technology, particularly those aspects with military applications, has been of increasing concern to American policymakers. The Select Committee became interested in the capabilities of the intelligence community to monitor the international nuclear trade and the development of nuclear power and weapons programs worldwide in order to ensure that policymakers are being provided with the best possible data on these critical issues. In much the same way as the Select Committee provided the Senate with an assessment of the intelligence community's capabilities to monitor the provisions of the SALT II Treaty, the

Committee began developing a data base for evaluating the progress of the community's technical monitoring and analytic capabilities with respect to the existing and proposed nuclear test ban agreements and for the Nuclear Non-Proliferation Treaty.

In early 1979 the Committee staff met with officials from all segments of the intelligence community concerning the status and planned improvements of U.S. nuclear detonation monitoring capabilities, particularly with respect to the proposed comprehensive nuclear test ban treaty. These preliminary explorations laid the foundation for a hearing on the collection and analytic needs of the intelligence community for nuclear test monitoring during the review of the fiscal 1980 intelligence budget.

Following the hearing, the staff conducted an exhaustive investigation and prepared a report on the September 22, 1979, possible nuclear event in the South Atlantic Ocean as a case study of U.S. nuclear detonation detection and analytic capabilities. The Committee continued to monitor the progress of the community in modernizing and improving these vital intelligence capabilities.

#### E. THE SOVIET BRIGADE IN CUBA

On August 31, 1979, the Department of State publicly stated that a Soviet combat unit of between 2,000 and 3,000 men was based in Cuba. This statement followed several weeks of public speculation regarding the possible existence of such a unit.

Since the Cuban missile crisis in 1962, the Soviet Union has maintained a presence of several thousand military personnel in Cuba. These troops were known to perform a variety of functions, in keeping with the extensive Soviet-Cuban military relationship, including training Cubans in the use of the increasingly sophisticated Soviet military equipment that Cuba began receiving in the mid-1970's and operating communication facilities. In addition to these troops there were several thousand Soviet civilian personnel on the island.

Until the summer of 1979, however, it was not widely believed that the Soviets maintained an organized, independent ground forces unit in Cuba. By August, an analysis of all available intelligence information resulted in the conclusion that the Soviets did have such a unit, termed a "brigade", in Cuba, that it has been there for a number of years, and that it consisted of between 2,000 and 3,000 men.

The United States Government's uncertainty about the mission of the Soviet brigade—and how long it has been located there—had implications about the quality of performance of the U.S. intelligence community.

In September 1979 the Committee directed the staff to review the intelligence community's coverage of the Soviet-Cuban military relationship, with specific reference to the community's treatment of the Soviet ground combat unit. The review was to encompass the coverage provided by all the intelligence agencies of Soviet military activities in Cuba back to the months preceding the Cuban missile crisis in the fall of 1962. The Committee desired an evaluation of the adequacy of intelligence performance on this issue since 1962 and an analysis of



the intelligence community resources committed to Soviet military activities in Cuba over this time. From these the Committee expected to assess whether, in fact, an intelligence error had occurred with respect to the Soviet ground forces unit in Cuba and, if so, whether this error reflected on the intelligence community's abilities in other areas.

A Committee staff task force prepared a classified report for the Committee on the intelligence community's performance on the issue of the Soviet-Cuban military relationship. The report was based on interviews with officials in the intelligence agencies with both current and past responsibility for collection and analysis on this target. The task force additionally reviewed virtually all printed documents dealing with Soviet-Cuban relationships, that had been prepared by the intelligence agencies since 1962, dealing with the Soviet-Cuban military relationship. Finally, the Committee reviewed the nature of and trends in the allocation of collection and analytical resources dedicated to this question since the Cuban missile crisis.

#### F. QUALITY OF INTELLIGENCE

One of the most important—and difficult—aspects of the Committee's work has been its effort to improve the quality of intelligence production. Intelligence quality is the result of many factors, ranging from salary schedules and physical plant to organizational patterns, editorial policies and, at times, real or imagined pressures toward conformity. No single factor is responsible for all the problems affecting intelligence quality, and no simple solutions are likely to emerge.

It would be unfortunate if the American people were to see the work of the Committee as motivated by a sense that we already know, better than the intelligence agencies themselves, what all their faults are and how to cure them. The Committee's work in intelligence quality has been less the result of a belief that a particular set of National Intelligence Estimates was a failure than it was a mark of our conviction that timely and cogent analysis is as vital a concern as any clandestine operation or technical system.

Past studies by the Committee have pointed out several problems that have affected the quality of U.S. intelligence analysis. These include insufficient attention to economic and societal patterns; insufficient use of all available sources of intelligence; too great an emphasis on current reporting, at the expense of more searching analysis; a lack of linguistic and area expertise; and a reticence to challenge accepted wisdom or policy. In recent years the intelligence community, recognizing in particular the need for better analysis of third world countries, has begun to address these problems in a useful manner. The Committee has supported these efforts; it has funded increases both in analytic personnel and in incentives and opportunities for analysts to improve their language skills and substantive expertise. The Committee has also supported the use of outside reviewers and competitive analysis, while cautioning that such efforts should be structured so as not to degenerate into partisan wrangling.

The Committee will continue to seek a better understanding of intelligence problems and of means to correct them. It will look closely at recruitment, training and personnel practices to see whether the in-

telligence community can better hire and retain top quality analysts and technical personnel. It will be sensitive to the need for analysts and linguists to be provided access to career paths that promise recognition and responsibility without forcing all of our best talent into administrative positions. And it will remain vigilant to the requirement that intelligence agencies preserve their intellectual integrity in the face of any pressure to support a given policy or way of looking at things. In all these efforts, the Committee will remember its own limitations and work most closely with the intelligence community.

#### G. ANNUAL REPORTS OF THE DIRECTOR OF CENTRAL INTELLIGENCE

In accordance with S. Res. 400 this Committee received annual, classified reports from the Director of Central Intelligence on the intelligence community in 1979 and 1980. The 1979 report began with an overview from the DCI followed by separate sections from the Directors of the National Security Agency, the Defense Intelligence Agency and the Bureau for Intelligence and Research of the Department of State, and from the Deputy Director of Central Intelligence for the CIA.

In his overview, the DCI noted that the intelligence community faced three major challenges in 1979:

To improve the quality of political and economic intelligence in the face of rapidly and sometimes profoundly changing requirements;

To ensure that we could carry out effectively our many treaty monitoring responsibilities despite the loss of some capabilities and the heavy demand placed on others; and

To respond positively to the effects of active congressional oversight.

The Director of the Defense Intelligence Agency also emphasized that the threats posed to United States interests are becoming increasingly diverse and complex. As part of this problem, the Director mentioned that crisis situations during the year required special support and will require additional resources to assure adequate coverage.

The Director of the National Security Agency discussed the full range of requirements for signals intelligence support and some of the particular problems NSA confronted in 1979. One of the Director's major concerns regarded the need for continuing efforts to respond to developments in critical technical areas. It is his view that the United States has the basic technological ability to keep pace with these areas but that the critical question is whether the country will be able to strike the right balance among resources.

The Director of Intelligence and Research for the Department of State described the division of his bureau's efforts between servicing the needs of the Department's policymakers for analysis and information and insuring that intelligence activities abroad are subject to oversight. He, too, discussed the need to enhance longer-term research as opposed to the provision of current intelligence. He also emphasized that it is essential to have confidence in the intelligence community's ability to provide early warning of unexpected political and economic developments.

The 1980 report from the Director of Central Intelligence followed a similar format. The Director noted that 1980 had been a year of continual crisis monitoring. Other areas that will demand attention in the coming years include the competition for energy supplies and nuclear proliferation as well as the monitoring of various international treaties.

The Director of the Defense Intelligence Agency noted that the DIA was strongly challenged by the crises of 1980 but at the same time was able to meet its higher priority production tasks and still make some limited increases in Free and Third World analysis.

The Director of the National Security Agency reported that the signals intelligence system provided credible intelligence information during 1980 and simultaneously moved internally toward improved planning and programming. Several events during the year, however, indicated areas in which greater and more flexible resources were required.

During the year, NSA continued its efforts in promoting a better understanding with the academic community concerning the security implications of the public study of cryptography. In this connection, NSA participated in forums with the American Council on Education, the National Science Foundation, and universities and scholars to address issues of academic freedom and national security with respect to cryptologic research.

The Director of the Bureau of Intelligence and Research, Department of State, reported that his bureau was increasingly tasked by the Department's senior officers to provide them—directly or in coordination with the rest of the Intelligence Community—with the data and analytic judgments needed for policy action.

#### IV. COUNTERINTELLIGENCE AND COUNTERTERRORISM

Counterintelligence and counterterrorism are vital aspects of our nation's overall intelligence efforts. The United States confronts highly sophisticated adversaries, who pose multifaceted threats to this country's security. Hostile intelligence services seek to exploit gaps in our defenses and to take advantage of the opportunity offered by an open society, so as to weaken the effectiveness of U.S. foreign and military policies and to strengthen the capabilities of their governments for actions contrary to the interests of the United States and its allies. International terrorist groups pose dangers not only to human life and safety, but also international stability in many parts of the world. Effective, well-coordinated national counterintelligence and counterterrorism programs are essential to identify these threats, analyze carefully their dimensions and likely impact on the nation's security and implement measures for neutralizing their harmful effects.

##### A. COUNTERINTELLIGENCE

The Select Committee on Intelligence has made a continuing assessment of counterintelligence requirements and has found that improvements, including additional funding, should be made in U.S. counterintelligence efforts.

This Committee's last report described a continuing increase in hostile foreign intelligence threats to the United States and its interests. In addition to foreign intelligence officers and agents operating under official cover in this country, foreign services infiltrate clandestine agents among visitors and refugees admitted to this country. The recent and drastic influx of refugees from Cuba has obvious counterintelligence implications and millions of illegal aliens circulate uncontrolled in this country. The Committee's actions regarding policies on admission of aliens are discussed below.

The activities of clandestine agents are not the only dimension. Domestic and international communications can be vulnerable to interception by foreign intelligence services, and reconnaissance satellites can observe military and industrial installations. There are clearly increasing workloads for U.S. counterintelligence and security programs. Therefore, the Committee has been considering whether adequate funds and personnel are being assigned to our national counterintelligence effort.

No important segment of our society is immune from the efforts of hostile intelligence services, which may affect the business and scientific communities, as well as our political and governmental institutions, including the Congress. One case, in a long series of Soviet efforts to penetrate key units of the U.S. Government, including sensitive areas of the Congress, came to public notice with the indictment of CIA employee, David Barnett, and an officer of the *KGB* stationed

under official cover at the Soviet Embassy in Washington, D.C. Barnett was indicted and pleaded guilty to a charge of selling sensitive U.S. intelligence information to the Soviet Union in 1976 and 1977. However, the success of our counterintelligence personnel in the Barnett case should not obscure the failures in recent cases, such as Boyce-Lee and Kampiles, which involved the compromise of some of our most advanced satellite systems. Also we have been the victim of effective technical intelligence collection by the USSR since the 1960's. The technological revolution in intelligence has created a new domain for deception and has complicated the task of detection. There has been concern that the United States may lack an adequate technical counterintelligence program.

Other issues that have come under study by the Committee include proposals regarding the organization and conduct of U.S. counterintelligence activities, to include centralized counterintelligence files and an organization with authority to co-ordinate a complete counterintelligence program. There has been perceived the need to bridge gaps between counterintelligence efforts and personnel, physical, document, and communications security programs. The Committee also has been examining the effects of personnel cuts and early retirements, which have reduced significantly the number of counterintelligence experts with over twenty years of specialized experience. Questions also have been raised about the diffusive effect of shifting counterintelligence functions from counterintelligence specialists to intelligence personnel having other duties. This diffusion, in contrast to concentration, raises the concern that: when everyone is responsible, no one is responsible. Given organizational separation between various civilian and military intelligence agencies, it is important to have not only good operational cooperation but also comprehensive and integrated national counterintelligence analysis. Another concern involves the need for more attention to the use of counterintelligence analysis in formulating national estimates. The Committee has been working with the Executive branch to improve the quality of national counterintelligence analysis and expects to press for greater improvement.

There are hostile foreign intelligence services ready and willing to finance or direct efforts to interfere with our economic and political system through the use of witting clandestine agents and accessories. Such foreign covert action can include covertly financed or directed propaganda aimed at impeding or impairing the effectiveness of our intelligence agencies. For example, an unclassified CIA report has demonstrated the significant clandestine propaganda efforts of the Soviet Union directed at foreign nations. The investigation into Billy Carter's relationship with the government of Libya brought to light some of the difficulties in determining when a person may be considered an agent of a foreign power for the purposes of the Foreign Agents Registration Act. In the past, these kinds of activities came under the heading of counter-subversion which, along with counter-espionage is important to our national security. While we are limited under our legal system in the extent to which we may prohibit or regulate such conduct, these matters do warrant further attention.

<sup>1</sup>As President Carter said on May 31, 1980: "The maintenance of a nation's security from Communist subversion or aggression is a prerequisite to the honoring of human rights and the establishment of democratic processes."

## B. DEPARTMENT OF JUSTICE REPORT ON ADMISSIONS OF ALIENS

As a result of interest expressed by the Committee, the FBI and the Department of State adopted a new system of reviewing applications for visas to the U.S. This system reduced dramatically the number of visas granted to Soviet and Soviet bloc aliens who are known or suspected of being affiliated with a hostile foreign intelligence service.

This new procedure was developed after complaints reflected concern that the FBI was being overruled by the Department of State on many FBI requests for visa denials. Potentially serious problems were created by granting temporary visas to aliens who were suspect; in some cases known spies were allowed to enter the U.S. and to move around the country, setting the stage for potential clandestine intelligence activities. The new system greatly improved this situation.

The formation of an interagency committee from State, FBI, Justice, and the CIA, which meets to discuss visa cases on which State and the FBI cannot agree resulted in a more coherent policy.

Prior to this new interagency arrangement, visas were issued by consular officers overseas, after a review by the Department of State, and a final decision on behalf of the Attorney General made by the Immigration and Naturalization Service. The FBI at times was not involved at an early enough stage.

The problem was highlighted during hearings before the Senate Intelligence Committee on the FBI intelligence budget for fiscal year 1979. Visas granted to Soviet and Soviet bloc aliens by Department of State over FBI objections presented a serious problem. During this budget authorization process a requirement was added (Title IV of the Intelligence and Intelligence-Related Activities Authorization Act of 1979), calling for a report from the Justice Department to both Intelligence Committees on the number of cases in which the FBI had been overruled. This Act took effect October 1, 1978. (H.R. Rep. No. 1420, 95th Cong., 2nd Sess.)

Well before the adoption of Title IV, attorneys from both agencies had been working together to solve the problem. The result was the new interagency committee whose function is to resolve individual cases that State and the FBI were unable to resolve between themselves.

The Attorney General's report and supporting material were received by the Committee and reviewed by staff. In the view of the Committee, the new process was working well and there was every indication that the working relationships between the relevant agencies were much improved.

## C. INTERNATIONAL TERRORISM

The problems created by international terrorism activities are receiving the attention of all U.S. intelligence agencies. The Committee continued its assessment of the quality of the intelligence community's efforts and their contribution to the protection of U.S. citizens against the potential dangers of terrorist actions. Questions examined by the Committee included: how the government is organized to task, collect, analyze, disseminate, and use intelligence on terrorism; what counterterrorist capabilities exist within the U.S.

Government and how well intelligence is used by these groups; and what if any, changes need to be made to the various guidelines under which the Government collects intelligence on terrorism. As international terrorist groups begin to make use of more esoteric methods of intimidating and harming the public, it is imperative that the U.S. Government be prepared to combat potential dangers. The Committee considered the question of terrorism to be of major importance for this country and other nations in the next few years. The Committee began preparing a classified study on these questions.

#### D. FBI COUNTERTERRORISM INVESTIGATIONS

Under S. Res. 400 (94th Congress), the Select Committee exercised oversight jurisdiction with respect to the counterterrorism program of the Federal Bureau of Investigation, including both international and domestic terrorism. While the Select Committee has primary jurisdiction over intelligence activities concerning international and foreign terrorism, primary responsibility with regard to the FBI domestic terrorism program is vested in the Committee on the Judiciary. Specific statutory authority for FBI international terrorism investigations was included in the intelligence charter legislation considered by the Select Committee. The annual Intelligence Authorization Act reported by the Committee included funds for both FBI international terrorism investigations (part of the FBI counterintelligence program) and FBI domestic terrorism investigations. In addition, the Select Committee followed closely the development of provisions for investigations of terrorism in the proposed FBI Charter Act, S. 1612, introduced in 1979 and referred to the Judiciary Committee. Extensive hearings were held on that bill before the Judiciary Committee over the past two years.

The Judiciary and Intelligence Committees of both Houses have monitored carefully the impact of the Attorney General's guidelines to determine whether, and to what extent, basic principles of those guidelines should be incorporated in a statutory charter for the FBI. Under Director William H. Webster, the Bureau itself has undertaken an assessment of the long-term needs of the nation for an effective FBI counterterrorism program supported by specific statutory authority and including appropriate safeguards to protect individual rights.

## V. OVERSIGHT ACTIVITIES

### A. COVERT ACTION

As provided by Executive Order 12036 and S. Res. 400 and by Public Law 96-450, the Committee received detailed reports and heard testimony on covert action programs before implementation. Some covert action programs were modified to take into account views expressed by the Committee.

The committee has, through regular review of programs and hearings, kept abreast of ongoing covert action. In the context of the budget authorization process, the Committee has continued its practice of reviewing annually each covert action line item in the budget.

The most significant event in the oversight of covert action during the period of this Report was passage of S. 2597 (Public Law 96-450), the Intelligence Authorization Act for FY 1981, which contained amendments that modified the Hughes-Ryan amendment and established a new Title V in the National Security Act of 1947.<sup>1</sup> The new title, "Accountability for Intelligence Activities; Congressional Oversight," extends the scope of executive branch reporting on covert actions, but limits such reporting to the Senate and House Intelligence Committees.

### B. STANDARDS OF CONDUCT

During the past three years the CIA and the Defense Department promulgated and the Attorney General approved the procedures required by Executive Order 12036 to regulate the conduct of intelligence activities within the United States or affecting the rights of Americans abroad. In addition, the Attorney General issued revised guidelines for FBI foreign intelligence and counterintelligence activities. These procedural requirements were initiated over five years ago under the Ford Administration, when Executive Order 11905 first addressed the need for guidelines to govern such intelligence activities. Particular agencies also have internal regulations—in some cases predating the Executive orders—that deal with the same or related concerns. While the provisions regarding certain topics are classified in whole or in part to maintain necessary security, many of the regulations and procedures are unclassified.

The Select Committee received both the classified and unclassified procedures promulgated pursuant to the Executive orders, as well as other relevant guidelines and regulations, and received notification of modifications as they were made. Many of the subjects covered by the current regulations, guidelines, and procedures were considered by the Committee in the context of charter hearings.

Particular attention was given to the classified provisions which are not subject to public examination and are not generally accessible

<sup>1</sup> See appendix II.



to the Congress through normal channels by routine request to an agency. In some cases clarification of the meaning of specific provisions was requested so that the Committee might better understand the intent and practical effect of new procedures.

#### C. MAIL COVER REGULATIONS

A revision in the regulations of the United States Postal Service with regard to "mail covers" was considered in some detail. In 1979 the Postal Service proposed a revision in its regulations for the examination of envelopes in United States postal channels ("mail covers"). The revision did not involve the statutes and regulations for the opening of mail, which is governed by separate law requiring a judicial warrant. Instead, the issue involved the standards and procedures under which the Postal Service would comply with a request to examine the exterior of mail, record the names and addresses thereon, and disseminate that information for counterintelligence purposes. Federal law does not require a judicial warrant for "mail covers" in criminal law enforcement investigations, and thus a warrant or court order was not considered necessary to employ such techniques to obtain counterintelligence information.

The revised mail cover regulations were proposed by the Postal Service in response to a federal district court decision that the existing regulations were unconstitutionally vague. *Paton v. LaPrade*, 469 F. Supp. 773 (D.N.J. 1978). The proposed modification was published in the Federal Register for public comment on April 24, 1979 (44 FR 24111-24115). In response there was some public criticism that the proposed standards were confusing and might be more permissive than necessary to achieve legitimate counterintelligence objectives. Members of the Committee requested the staff to review the proposal; and consultations subsequently took place with Postal Service officials, the FBI, and the Department of Justice. The Chairman and Vice Chairman advised the Postmaster General of the results of this review.

The principles suggested as being appropriate for Postal Service mail cover regulations in the field of counter-intelligence were substantially embodied in the final regulation promulgated by the Postal Service on August 24, 1979 (39 CFR 233). Those regulations provide for the conduct by the Postal Service of mail covers "to protect the United States from any of the following actual or potential threats to its security by a foreign power or its agents: (i) an attack or other grave hostile act; (ii) sabotage, or international terrorism; or (iii) clandestine intelligence activities." The regulations also require that any such mail cover request "must be approved personally by the head of the law enforcement agency requesting the cover."

The Select Committee fully supported the efforts of the Postal Service to provide authority for meeting United States counterintelligence requirements in a manner that would be clearly understood and accepted by the American people.

#### D. FBI DOUBLE AGENT PRACTICES

A Chicago newspaper, in a series of articles in October of 1979, alleged that the FBI had passed, through an FBI-controlled double agent, "detailed, highly personal, and derogatory information" re-

garding nine United States citizens to a Polish intelligence service. The allegations were based on the newspaper's investigation of the circumstances of a U.S. district court case brought by an attorney of Polish extraction against the United States Government. As a consequence of these allegations and a request made by the attorney, the Committee staff undertook a review of FBI policies and practices involving the dissemination of personal information by FBI-controlled double agents.

The Committee staff received a briefing on the allegations regarding the passage of information to a Polish intelligence service from the FBI's Assistant Director, Intelligence Division. These allegations related to a law suit pending before the Federal District Court in Chicago. So as not to prejudice the rights of the parties in this case, the Committee will not discuss these allegations.

In the course of its broader review, however, the Committee requested the Director of the FBI to report to the Committee upon the completion of the Bureau's own review of its policies and practices concerning the dissemination of personal information on U.S. persons through double agents. Furthermore, it asked the Attorney General for his assessment of the relevant FBI policies.

The Committee received revisions in the Attorney General's Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations and also received the relevant directives from FBI Headquarters to all field offices providing standards and procedures for the passage of personal information to a hostile intelligence service through an FBI-controlled double agent.

On the basis of its review, the Committee is satisfied that the Department of Justice and the FBI had addressed the possible problems that could arise in such operations and have established suitable standards and guidelines for the conduct of these double agent activities.

#### E. CIA REGULATIONS CONCERNING RELATIONSHIPS WITH JOURNALISTS, ACADEMICS, AND CLERICS

In his testimony to the Select Committee on the proposed charter (February 21, 1980), Admiral Turner indicated that on three occasions he had authorized the use of journalists for intelligence purposes; in each case, however, other factors intervened and the proposed operation involving the journalist was not undertaken.

This disclosure involved the issue of the CIA's relationships with the members of certain professions, an issue which was addressed in the charter and discussed by various interested groups in public hearings. When it became clear that a comprehensive charter would not be enacted by the 96th Congress, there was some sentiment that this issue should be resolved expeditiously, outside the charter process, if necessary.

Senator Moynihan sought to amend the Intelligence Oversight Act by including an absolute prohibition on the cover and clandestine operational use of journalists, academics and clerics by any intelligence unit. However, this proposal was withdrawn pending further consideration of the issues.

On May 19, 1980, the Chairman and Vice-Chairman requested in a letter to Admiral Turner, that "regular reports be submitted to the Committee by the head of each relevant department, agency or other entity of the intelligence community concerning intelligence relationships with [American religious, media and educational institutions] and their employees or representatives."

#### F. FOREIGN INTELLIGENCE SURVEILLANCE ACT

The Foreign Intelligence Surveillance Act of 1978, provides in section 108(b) that the Select Committee is to report to the Senate annually concerning the implementation of the Act for the first five years after its effective date. The Select Committee submitted reports pursuant to this requirement on October 25, 1979 (S. Rep. No. 96-379) and on October 30, 1980 (S. Rep. No. 96-1017).

The Select Committee conducted a continuing analysis of the Act and its implementation, based upon information provided by the Attorney General and the agencies concerned. Under section 108(a) the Attorney General is required to inform fully the Select Committee on a semiannual basis concerning all electronic surveillance under the Act. Written reports were provided by the Attorney General to the Committee in September 1979, in April 1980, and in October 1980. Each report contained detailed statistics on the various categories of targets of electronic surveillance during the reporting period and appropriate narrative explanations. The reports were also supplemented by meetings between designated Committee staff and representatives of the agencies involved.

The Administration proposed several technical amendments to the Foreign Intelligence Surveillance Act. These amendments, and other matters arising from the Committee's oversight of the implementation of the Act, were addressed in the Committee's annual report to the Senate on October 30, 1980. In this report the Committee recommended that, pending further consideration of these proposals, the Act be permitted to continue in effect without amendment.

#### G. CIA REPORT UNDER FOREIGN CORRUPT PRACTICES ACT

The Foreign Corrupt Practices Act of 1977 obliges all U.S. publicly held corporations to "make and keep books, records, and accounts which in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets" of the corporation. Under a "national security" provision of the Act, a corporation can be relieved from the requirements for accuracy in corporate books and records with respect to particular classified matters relating to the national security in which it may be involved, provided that in each instance the corporation is especially exempted from liability under the Act by means of a written directive issued by the Federal agency responsible for the national security matter in question. These directives must be reviewed annually and, in addition, the appropriate agency head must "transmit a summary of matters covered" by all exemption directives in force at any time during the previous year to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence.

The annual report submitted by the Director of the CIA in 1980 specified those new exemption directives issued as well as those renewals of exemption directives issued in the previous year. The CIA's statutory obligation under the Foreign Corrupt Practices Act was satisfied by the report submitted. Reporting annually ensured adequate oversight by the Congress of those transactions which, for reasons of national security, could not be publicized.

#### H. THE PAISLEY AND GUYANA INQUIRIES

The Committee concluded an investigation into the circumstances of the death of former CIA intelligence officer John Paisley. Allegations had appeared in the press alleging that Mr. Paisley's death was in some way attributable to his intelligence work. The Committee conducted neither a homicide investigation, which would be the responsibility of the Maryland state authorities (who still list Paisley's cause of death from a gunshot wound as "undetermined" rather than as a homicide or a suicide), nor a full counterintelligence investigation which would be the responsibility of the FBI.

However, during the course of its inquiry, the Committee found no information to support the allegations that Mr. Paisley's death was connected in some way to involvement in foreign intelligence or counterintelligence matters.

The Committee also conducted an inquiry with respect to allegations of a relationship between U.S. intelligence activities and the tragic events at Jonestown, Guyana, in November 1978. More specifically, assertions were made that: (a) the United States was involved in a covert action program in Guyana at that time, and (b) the United States was using Jim Jones as an ally of the Guyana government to maintain its control of that country. The Committee found no evidence to support those allegations.

#### I. UNAUTHORIZED DISCLOSURES

The Committee was deeply concerned about unauthorized disclosures of sensitive intelligence information. The Committee's concern was expressed by the Chairman and Vice Chairman to the FBI Director. The Chairman's letter stated.

Our country cannot plan a foreign policy, we cannot defend ourselves against our adversaries if the entire world has access to information of the most sensitive nature . . . I urge you in my own behalf and with the full concurrence of the Senate Intelligence Committee to mobilize whatever forces are necessary within the FBI to investigate and to put an end to this unconscionable and destructive practice.

The letter was prompted by a series of news stories which purported to disclose secret plans for the rescue of the American hostages in Iran. The FBI in response to the Chairman, advised the Committee that it had initiated an investigation.

The Committee in mid-1980 held a series of public hearings on unauthorized disclosures as part of its effort to report out legislation making it a criminal offense to identify publicly intelligence officers

and agents. Such legislation is discussed in more detail elsewhere in this report.

In addition, a classified committee inquiry was undertaken at the request of the members into disclosures of agent activities in Moscow. Senators Moynihan (D-NY) and Wallop (R-Wyo.) in requesting closed hearings "to explore what has happened to our human intelligence collection in the Soviet Union" wrote:

The Select Committee was formed to act as the public's agent for investigating matters of this sort in a confidential and responsible manner.

With respect to the inquiry into agent activities in the Soviet Union, the Chairman and Vice Chairman issued the following statement on Dec. 5, 1980:

The Senate Select Committee on Intelligence has examined various allegations published in various media articles concerning the compromise of intelligence agent activities and the improper disclosures of highly sensitive classified information. One allegation was that an official of the National Security Council staff allegedly was responsible, through mishandling of sensitive intelligence information in early 1977, for the death or loss of a valuable intelligence source. Responsible officials of the Central Intelligence Agency, the National Security Agency and the Federal Bureau of Investigation have stated that they have no information to substantiate such an allegation. With the full cooperation of the FBI, CIA and the intelligence community, the staff of this Committee has conducted an independent review of relevant documents and interviews of present and former employees of intelligence agencies. No credible information from any reliable source was found to support the allegations.

## VI. BUDGET AUTHORIZATION

Annual budget authorizations is one of the principal means by which the Committee fulfills its responsibility of ensuring effective congressional oversight of U.S. intelligence activities. It is also one of the principle means by which the Committee can improve and strengthen the U.S. intelligence effort. During the period covered by this report, the Committee completed action on legislation which authorized appropriations for fiscal years 1980 and 1981.

### A. THE BUDGET AUTHORIZATION PROCESS

Each year the Committee, through its Budget Authorization Subcommittee, conducted a detailed examination of U.S. intelligence programs and activities. The budget authorization process began with an assessment by the Director of Central Intelligence of the key foreign policy issues likely to confront the nation over the next five to ten years and their implications for the scope and direction of intelligence.

This provided a framework within which a series of hearings was conducted with the Director of Central Intelligence, key Defense Department officials, and each of the principal program managers.

The formal hearings were supplemented by written responses to questions for the record on specific subjects or issues; special analyses and studies; informal staff briefings and interviews; and visits to installations within the United States and abroad to review intelligence programs and activities first-hand.

The principal focus of the Subcommittee's efforts during the past two years was in the following areas:

- The quality of management within the intelligence community;

- Steps taken or planned to improve the quality of analysis, with particular emphasis on planned improvements in the analysis of political, economic, and societal trends in third world nations;

- The adequacy of manpower devoted to analysis, human source collection and counterintelligence.

- Coordination, management and acquisition of major automatic data processing systems;

- The adequacy of U.S. intelligence capabilities for monitoring compliance with the provision of the SALT II agreement; and

- The extent to which budget proposals anticipated future policy needs, and provided the necessary investments in capabilities to be able to meet those needs.

As a result of analysis of the intelligence community's budget requests, the Committee recommended major investments in intelligence over the next several years. The Committee considered these investments essential to ensure that the intelligence community is able to respond adequately to the breadth and complexity of foreign policy

concerns with which U.S. policymakers will be faced in the coming years. Major investments were authorized for:

- Development of a new generation of collection systems to keep pace with changes in the target environment, and to provide sufficient redundancy to guard against over-reliance on individual systems that may be easily compromised, or lost unexpectedly;

- Modernization of selected collection and processing systems that are rapidly becoming obsolete or inefficient;

- Increased manpower and expanded automation techniques to aid in improving analytic capabilities; and

- Increased manpower for human source collection abroad.

As an integral part of the overall budget authorization process, the Committee continued its established practice of conducting a detailed examination of all covert action activities, culminating in a formal vote by each member on each individual project.

#### B. OTHER ACTIVITIES

During the period, the Committee also undertook a variety of other activities related to the overall budget authorization process. This included reviewing and approving reprogramming requests and releases of funds from CIA's Contingency Reserve, supplemental budget requests, and budget amendments.

#### C. CLASSIFIED BUDGET AUTHORIZATION REPORT

The classified nature of U.S. intelligence activities prevents the Committee from publicly disclosing the details of its budgetary recommendations.

The Committee does, however, prepare a classified report each year which describes in detail the full scope and intent of its recommendations, and the specific amounts authorized for each of the major U.S. intelligence activities.

S. Res. 400, 94th Congress, places an affirmative obligation upon the Committee to ensure that all members of the Senate are provided the information necessary to make informed judgments on authorization measures for intelligence. Accordingly, each year the Committee has made the classified report available to all members of the Senate, subject to the provisions of S. Res. 400.

In order to facilitate the budget authorization process the Committee has also made copies of the classified report available to the Senate Appropriations and Armed Services Committees, and the House Permanent Select Committee on Intelligence.

Annual budget authorization is an essential tool in conducting effective congressional oversight of the U.S. intelligence activities. It not only provides an effective means of ensuring accountability, but also enables the Congress to exercise a positive influence by strengthening areas where it is needed.

#### D. STATUTORY AUTHORIZATIONS

As part of the budget authorization process, the Select Committee addressed problems faced by the intelligence community which required specific statutory authorities. The Intelligence Authoriza-

tion Act for Fiscal Year 1980 extended educational travel benefits to dependents of CIA and NSA employees serving overseas. Higher educational facilities in many of the countries in which CIA employees serve were often unavailable or inadequate, forcing families to separate so that children could continue their education at the secondary and college level in the United States. Since 1974, student dependents of Department of State employees stationed overseas had been allowed an annual round-trip to visit with their parents, but student dependents of CIA and NSA employees were allowed to visit their parents only once while in high school or college. Recognizing the importance of regular family reunifications to morale, the Select Committee provided for government funding of an annual round-trip for student dependents of CIA and NSA employees serving abroad.

The Intelligence Authorization Act for Fiscal Year 1981 remedied another inequitable situation by authorizing payment of a death gratuity to dependents of employees of CIA and Defense Department intelligence components who die as a result of injury sustained outside the United States when it has been determined that death resulted from hostile or terrorist action or was incurred in connection with an intelligence activity having a substantial element of risk. This authority provided the same benefit already available to families of State Department employees. The Select Committee recommended this authority because U.S. intelligence personnel often serve in particularly dangerous circumstances.

The Authorization Act for fiscal year 1981 also authorized the Defense Department to pay expenses of arrangements with foreign countries for cryptologic support and provided certain administrative authorities for the National Security Agency. In addition, the Act authorized the granting of a degree of Master of Science in Strategic Intelligence by the Defense Intelligence School. The Director of Central Intelligence was authorized to accept gifts, bequests, and property on behalf of the CIA.

During fiscal year 1981, the Director of Central Intelligence was authorized to grant monetary or other relief to employees or former employees of the CIA whenever the Director determined that such individual's career had suffered due to unjustified personnel or administrative action resulting from allegations concerning the individual's loyalty to the United States.



APPENDIX I—SUMMARY OF COMMITTEE ACTIVITIES—JANUARY 1, 1979  
TO DECEMBER 31, 1980

A. TOTAL NUMBER OF MEETINGS/HEARINGS: TOTAL 99

Of the closed meetings, 15 were business meetings with no witnesses.  
In the other 67 closed hearings a total of 198 witnesses or briefers were heard.

Of the open meetings 2 were mark-ups without witnesses.

In the other open hearings 59 witnesses were heard.

More than 1,200 staff interviews were conducted.

B. BILLS AND RESOLUTIONS ORIGINATED BY THE COMMITTEE: TOTAL 5

1. S. Res. 76 authorizing the Select Committee to make expenditures to carry out its prescribed duties. Action: Referred to the Committee on Rules and Administration on 21 February 1979; reported to the Senate with amendment 27 February 1979; passed by Senate as amended 7 March 1979.

2. S. Res. 193 increasing the limitation on expenditures by the Select Committee for the procurement of consultants. Action: Referred to the Committee on Rules and Administration 18 July 1979, reported favorably without amendment on 26 July 1979, agreed to in the Senate on 2 August 1979.

3. S. Res. 354 authorizing the Select Committee to make expenditures to carry out its prescribed duties. Action: Referred to the Committee on Rules and Administration on 20 February 1980; reported favorably without amendment on 27 February 1980; agreed to in the Senate on 4 March 1980.

4. S. 975 authorizing appropriations for fiscal year 1980 for intelligence activities of the United States Government. Action: Reported 18 April 1979 and placed on the calendar. On 23 April 1979 referred to Committee on Armed Services who reported favorably without amendments on 11 June 1979. Passed the Senate 20 June 1979. Passed House as amended on 10 July 1979, House asked for a conference to which Senate agreed 31 July. Conference report agreed to in Senate on 17 October and in House on 24 October. Became Public Law 96-100 on 2 November 1979.

5. S. 2597, Intelligence Authorization Act for Fiscal Year 1981/ Action: Reported 23 April 1980 and referred to the Committee on Armed Services, who reported favorably on 27 June; passed the Senate with amendments on 28 June 1980. Passed House amended on 28 July 1980. House asked for conference to which Senate agreed 1 August. Conference report agreed to in Senate on 19 September, and in House on 30 September 1980. Became Public Law 96-450 on 14 October 1980.

## C. BILLS REFERRED TO THE COMMITTEE: TOTAL 4

1. S. 333, Omnibus Antiterrorism Act of 1979. Action: Hearings dispensed with because same issues relevant to intelligence activities were considered in 95th Congress in regard to S. 2236.

2. S. 1930, a bill to provide death gratuities for the survivors of certain Central Intelligence Agency employees. Action: Provisions were considered in hearings on budget authorization bill and were included in Title IV of S. 2597, which became Public Law 96-450 on 14 October 1980.

3. S. 2216, Intelligence Identities Protection Act of 1980. Action: Hearings conducted. Reported favorably as amended 13 August 1980. Referred to Judiciary Committee, which reported favorably as amended, 24 September 1980.

4. S. 2284, Intelligence Oversight Act of 1980. Action: Hearings conducted. Reported favorably as amended 15 May 1980. Approved by the Senate 3 June 1980. In the House referred jointly to Committees on Intelligence and Foreign Affairs. On 28 June 1980 the provisions of this bill were added as an amendment (Title V) to S. 2597, which became Public Law 96-450 on 14 October 1980.

## PUBLICATIONS FROM DECEMBER 31, 1978, TO DECEMBER 31, 1980

1. Senate Report 96-71 to accompany S. 975, Authorizing Appropriations for Fiscal Year 1980 for Intelligence Activities of the United States Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for Other Purposes.—April 18, 1980.

2. Senate Report 96-141—Report to the Senate covering the period May 16, 1977 to December 31, 1978.—May 14, 1979.

3. Principal Findings on the Capabilities of the United States to Monitor the SALT II Treaty (Committee Print).—October 1979.

4. House Report 96-512 (Conference Report) to accompany S. 975, Intelligence and Intelligence Related Activities Authorization Act, Fiscal Year 1980.—October 12, 1979.

5. Senate Report 96-379—Implementation of the Foreign Intelligence Surveillance Act of 1978.—October 25, 1979.

6. Senate Report 96-659—to accompany S. 2597, Authorizing Appropriations for Fiscal Year 1981 for Intelligence Activities of the U.S. Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System (CIARDS), and for Other Purposes.—April 23, 1980.

7. Senate Report 96-730 to accompany S. 2284—Intelligence Oversight Act of 1980.—May 15, 1980.

8. Senate Report 96-896 to accompany S. 2216, Intelligence Identities Protection Act.—August 18, 1980.

9. House Report 96-1350 (Conference Report) to accompany S. 2597, Intelligence Authorization Act for Fiscal Year 1981.—September 19, 1980.

10. Senate Report 96-1017—Implementation of the Foreign Intelligence Surveillance Act of 1978-1979-1980.—October 30, 1980.

11. Hearings on S. 2284, National Intelligence Act of 1980, held February 24, 28, March 24, 25, 27, 31, April 1, 2, and 16, 1980.

12. Hearings on Intelligence Identities Protection Legislation, S. 2216 et al, held June 24, 25, 1980.

**APPENDIX II: MODIFICATION OF THE HUGHES-RYAN AMENDMENT:  
LEGISLATIVE HISTORY**

The Hughes-Ryan amendment, Sec. 662 of the Foreign Assistance Act of 1974, stated as follows:

Limitations on Intelligence Activities—(a) No funds appropriated under the authority of this or any other Act may be expended by or on behalf of the Central Intelligence Agency for operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, unless and until the President finds that each such operation is important to the national security of the United States and reports, in a timely fashion, a description and scope of such operation to the appropriate committees of the Congress, including the Committee on Foreign Relations of the United States Senate and the Committee on Foreign Affairs of the United States House of Representatives.

Public Law 96-450 amended this language by striking everything after "national security of the United States" and adding language that makes "each such operation . . . a significant anticipated intelligence activity for the purposes of section 501 of the National Security Act of 1947." The requirement that the President find each CIA covert action operation to be important to the national security remains in the law. Section 501(b) of Title V of the National Security Act of 1947 requires that:

The President shall fully inform the Select Committees in a timely fashion of intelligence operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, for which prior notice was not given under subsection (a) and shall provide a statement of the reasons for not giving prior notice.

This subsection, like the rest of Title V, goes beyond the Hughes-Ryan amendment by applying to covert action activities of all U.S. Government entities, rather than just to those of the Central Intelligence Agency.

In addition, the new Title V provides for prior notice of "any significant anticipated intelligence activity," which includes covert action.

Section 501(a), subject to certain conditions, requires that the Director of Central Intelligence and other agency heads keep the Select Committee:

. . . fully and currently informed of all intelligence activities which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States, including any significant anticipated intelligence activity, except that (A) the foregoing provision shall not require approval of the Select Committee as a condition precedent to the initiation of any such anticipated intelligence activity, and (B) if the President deter-

mines it is essential to limit prior notice to meet extraordinary circumstances affecting vital interests of the United States, such notice shall be limited to the chairman and ranking minority members of the Select Committees, the Speaker and minority leader of the House of Representatives, and the majority and minority leaders of the Senate.

The basic provisions and proviso (A) are based upon section 11(a) of S. Res. 400, 94th Congress, which established the Senate Select Committee on Intelligence, and upon section 3-4 of Executive Order 12036 of January 26, 1978.

Under some circumstances, the President could also give prior notice to the full committees without all members being informed. For Section 501(c) states that, "The President and the intelligence committees shall each establish such procedures as may be necessary to carry out the provisions of subsections (a) and (b)." And this Committee's report on S. 2284 comments:

One or both committees, may, for example, adopt procedures under which designated members are assigned responsibility on behalf of the committee to receive information in particular types of circumstances, such as when all members cannot attend a meeting or when certain highly sensitive information is involved.

In response to a question from Senator Javits when S. 2284 was considered by the full Senate, Senator Huddleston made clear the responsibility of the eight leaders to inform the full Select Committees:

In the case of prior notice to the eight leaders under section 501(a)(1)(B), the intent is that the full oversight committees will be fully informed at such time as the eight leaders determine is appropriate. The committees will establish the procedures for the discharge of this responsibility under section 501(c).

And section 501(d) indicates that:

... each of the intelligence committees shall promptly call to the attention of its respective House, or to any appropriate committee or committees of its respective House, any matter relating to intelligence activities requiring the attention of such House or such committee or committees.

Thus, a covert action operation of which the eight leaders were notified would in due course be described to the full committees, which could decide to inform other committees and/or the full House or Senate. Senate procedures for the latter step are outlined in S. Res. 400 and in this Committee's rules of procedure.

The prior notice requirements are also subject to the preambular clauses in section 501(a), which read as follows:

To the extent consistent with all applicable authorities and duties, including those conferred by the Constitution upon the executive and legislative branches of the Government, and to the extent consistent with due regard for the protection from

unauthorized disclosure of classified information and information relating to intelligence sources and methods . . .

The first preambular clause of section 501 (a), which is based upon section 3-4 of Executive Order 12036, is designed to deal with what the Committee's report on S. 2284 says "may be a gray area resulting from the overlap between the constitutional authorities and duties of the branches." That report continues as follows:

Nothing in this subsection is intended to expand or to contract or to define whatever may be the applicable authorities and duties, including those conferred by the Constitution upon the Executive and Legislative branches.

The second preambular clause, which is also based upon section 3-4 of Executive Order 12036, was occasioned by the need to deal with the fact, recognized in the Committee's report on S. 2284:

. . . that in extremely rare circumstances a need to preserve essential secrecy may result in a decision not to impart certain sensitive aspects of operations or collection programs to the oversight committees in order to protect extremely sensitive intelligence sources and methods.

Section 501 (e), added in conference with the House of Representatives, makes clear that the Select Committees are themselves authorized to receive all such information:

Nothing in this Act shall be construed as authority to withhold information from the intelligence committees on the grounds that providing the information to the intelligence committees would constitute the unauthorized disclosure of classified information or information relating to intelligence sources and methods.

The conference report observed that:

By agreement both branches recognize that particular circumstances will require the exercise of unusual care and discretion. The protection of sources and methods is a means to protect the vital interests of the U.S. and is not an end in itself. Consequently, over the past four years the intelligence oversight committees have consulted with the executive branch to determine those areas where, on the basis of past experience and a reasonable sense of future needs, there might be good and sufficient reason to withhold information when some compelling reasons arise from extraordinary circumstances where the vital interests of the U.S. are involved.

And this Committee's report on S. 2284 adds:

This statute does not provide a statutory right to withhold information from Congress when subpoenaed by Congress.

When S. 2284 was considered by the full Senate, Senator Huddleston described the President's duty of prior notice as follows:

I myself believe that the only constitutional basis for the President to withhold prior notice of a significant intelli-

gence activity would be exigent circumstances when time does not permit prior notice; in such a case the committee could be notified as soon as possible. At the same time, the executive branch has argued that the President's "constitutional authorities and duties" might permit a withholding of prior notice through the exercise of the President's constitutional authority.

Senator Inouye endorsed Senator Huddleston's views when the Senate considered the conference report on S. 2597. And the Majority Leader, Senator Byrd of West Virginia, summarized the situation as follows during consideration of S. 2284:

If the President were to undertake a significant intelligence activity without notice to Congress, he would not only jeopardize his relations with Congress, but would call into question the wisdom of the activity . . .

The language recognizes a "buffer zone" of overlapping constitutional powers between the executive and legislative branches . . .

Nevertheless, the President bypasses the procedural provisions of this bill, and moves into this gray, constitutional buffer zone, at his peril. This is because the presumption of this bill is that prior notice must be given to Congress, period.

## ADDITIONAL VIEWS OF SENATOR MALCOLM WALLOP

The section on Quality of Intelligence (p. 13) gives the impression that our concern for the quality of analysis does not stem from actual experience with bad sets of estimates. In fact it does. I have repeatedly pointed out that nothing the CIA did in the past fifteen years has so harmed the country as its long series of underestimates of the size, scope, and purpose of the Soviet strategic buildup. I think that, were the Committee polled on the question of whether the NIEs on the Soviet Union have failed us or not, there would be a substantial majority of yeas. Moreover, there is a broad consensus of the committee in favor of at least a partial solution: competitive analysis. I would have reflected this in the report by substituting the following for the first two paragraphs of this section:

"One of the most important—and difficult—aspects of the committee's work has been its effort to improve the quality of intelligence production. Above all, the National Intelligence Estimates have misunderstood the size, scope and purpose of the Soviet Strategic buildup. There was sufficient evidence available to the Intelligence community for correct judgments to be made. Indeed, some U.S. analysts did make correct judgments. But the system by which National Estimates are produced often stifled their dissent and brought forth judgments insufficiently related to the evidence. Although this system has not had such disastrous effect in other areas, it has tended to lower the intellectual quality of all National Intelligence Estimates. There has been strong feeling on the committee that analytical products would be improved if each of the agencies in the community were encouraged to do its own draft on important analytical questions, supporting it with the evidence as best it could. The several teams of drafters could compete with one another and point out each other's shortcomings to the benefit of all. The committee realizes that it cannot and should not substitute itself for the drafters of National Estimates any more than can policy makers in the Executive Branch. But precisely for that reason, there is a strong feeling on the committee that the Estimates would be more useful both to the committee and to the Executive Branch if they were prepared competitively."

MALCOLM WALLOP

## ADDITIONAL VIEWS OF SENATOR JOSEPH R. BIDEN, JR.

Although the hostile intelligence threat to the United States described in section A, Counterintelligence, of Chapter IV is documented and large, I cannot concur unconditionally in that section because it is insufficiently balanced. It is not balanced in that it does not reflect the important constitutional and civil libertarian concerns that must receive recognition in both the conduct of U.S. counterintelligence efforts when U.S. persons are involved and this Committee's oversight of them.

The large official presence of many Communist countries in the United States includes a high percentage of highly active intelligence officers. They have vastly greater freedom of movement and access here than United States officials have in their countries. The open nature of our society, the decentralization of defense related development and production activities, and the sometimes lax security practices found in both the government and private sectors all facilitate successful efforts by hostile intelligence personnel. Additionally, it is understood by the intelligence community and appreciated by the members of this Committee that United States Government and private activities are extremely vulnerable to technical forms of intelligence collection such as communications intercept.

Furthermore, hostile intelligence services frequently are assisted in meeting one of their highest objectives, the acquisition of sophisticated, military-related technology, by Americans who do not perceive themselves as agents of a foreign power. These Americans are willing to sell, sometimes through third parties, sensitive equipment to hostile countries. These are transactions with a net effect often more harmful than espionage.

The above mentioned are only several dimensions of the hostile intelligence threat to U.S. national security. For these and other reasons, I have supported the Committee's efforts to enhance U.S. counterintelligence programs and to increase their funding.

Against these very troubling threats, however, must be balanced the requirement to conduct U.S. counterintelligence efforts with a scrupulous respect for civil liberties when U.S. persons are involved and a dispassionate understanding of the factual nature of hostile intelligence activities. This respect for constitutional and civil libertarian requirements is reflected, for example, in the current guidelines for the conduct of FBI counterintelligence activities issued by several former Attorneys General and Bureau Directors. The Committee, in turn, has attempted to meet constitutional and civil libertarian requirements through its laborious deliberations over the proposed intelligence charters and its regular oversight efforts.



The report's section on counterintelligence does not accurately depict the weight owed to constitutional and civil libertarian concerns in a discussion of counterintelligence activities of the United States Government. Nor does it reflect the importance attached to these matters by the Committee. Conversely, it gives disproportionate weight to other matters, such as proposals for creating more centralized counterintelligence authorities, that have arguably occupied less of the Committee's attention.

JOSEPH R. BIDEN, Jr.

